

REMARKS

Claims 1-20 are pending in the application. The Applicants wish to thank the Examiner for granting the telephone interview with the Applicants' representative, attorney Richard L. Kaiser, on November 12, 2002. The substance of that interview will be discussed below.

The Examiner's reminder that the original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed is appreciated. The original patent is attached as requested.

The Examiner has stated that the oath/declaration filed with the application is defective for failing to identify at least one error which is relied upon to support the reissue application. As discussed in the interview, no specific error must be stated according to M.P.E.P §1414. Rather, the statement in the Declaration that "I believe the original patent to be partly or wholly inoperative or invalid by reason of the patentee claiming less than the patentee had a right to claim in the patent" is sufficient.

The Examiner has also stated that the oath/declaration is defective for failing to reference the foreign priority claim. The Supplemental Declaration includes the foreign priority claim to German Application No. DE 1 96 14 147.8, filed in Germany on April 10, 1996.

The Applicants submit that the Supplemental Declaration overcomes the Examiner's rejection under 35 U.S.C. 251. The Supplemental Declaration also includes the Examiner's recommended language for a supplemental oath/declaration regarding the lack of deceptive intent on the part of the applicant.

The Examiner has rejected claims 17-20 under 35 U.S.C. 251 as being based upon new matter added to the patent for which reissue is sought. Claims 17-20 have also been rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner has stated that the specification, as originally filed, fails to describe the claimed use of a solid electrolyte member or having an outside electrode on the outside surface of the solid electrolyte member.

First, with regard to the outside electrode feature, the Applicants direct the Examiner's attention to column 6, lines 27 and 28, which states "The outside electrode is then applied and the ceramics subsequently sintered." In the telephone interview, the Examiner agreed that the outside electrode feature is supported by the specification. The Applicants also wish to point out that the outside electrode limitation is not present in claims 19 or 20.

Second, with regard to the term "solid electrolyte member," the Applicants submit that the term "ceramic member," as used in the context of exhaust gas sensors of the type disclosed in both the Applicants' specification and U.S. Patent No. 6,096,372 to Nomura, et al., is understood by those skilled in the art at the time of the invention to mean a solid electrolyte member. In other words, the terms "solid electrolyte member" and "ceramic member" are synonymous in the context of exhaust gas sensor applications. This is because exhaust gas sensors of the type disclosed in both the Applicants' specification and U.S. Patent No. 6,096,372 to Nomura, et al. use cup-shaped members that must be electrically conductive, i.e., permitting the movement of ions therethrough.

The term "electrolyte" is defined by Webster's II New College Dictionary as "A substance that dissociates into ions in solution or when fused, thereby becoming an electrical conductor." The fundamental operating principle of exhaust gas sensors of the type disclosed in both the Applicants' specification and the U.S. Patent No. 6,096,372 to Nomura, et al. requires the use of a conductive, solid electrolyte member. Therefore, the ceramic member discussed in the Applicants' specification must be a solid electrolyte member, and those skilled in the art of exhaust gas sensors at the time of the invention would understand this to be true.

For this reason, the term "solid electrolyte member" is inherently supported by the term "ceramic member," as used in the Applicants' specification to describe the cup-shaped member used in an exhaust gas sensor. Furthermore, those skilled in the art of exhaust gas sensors at the time of the invention would certainly understand that the Applicants were in possession of the claimed invention, regardless of whether the term "solid electrolyte member" or "ceramic member" was used, because this type of exhaust gas sensor must use a conductive, solid electrolyte material for the cup-shaped member. Merely calling the member a ceramic member instead of a solid electrolyte member does not change the fact that it must be a solid electrolyte in order for the exhaust gas sensor to operate.

In view of the foregoing, reconsideration and allowance of claims 1-20 are respectfully requested.

The undersigned is available for telephone consultation at any time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard L. Kaiser". The signature is written in a cursive, flowing style.

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